IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9038 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ISHWARBHAI D PRAJAPATI - Petitioner(s)

Versus

YOGESHWAR INDUSTRIES CORPORATION - Respondent(s)

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Appearance :

MR TR MISHRA for Petitioner No(s).: 1.

RULE UNSERVED for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 19/07/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 1st April, 2000 passed by the Labour Court, Ahmedabad in Misc. Application No. 41 of 1997 in Reference [L.C.A.] No. 90 of 1987, whereby the said

application was allowed.

2. The short facts of the case are that the petitioner was working as a Salesman with the respondent. The respondent without following any procedure under the Industrial Disputes Act, terminated the service of the petitioner w.e.f. 1st June, 1986.

2.1. Being aggrieved by the said action, the petitioner raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after considering the case on merits, directed the respondent to reinstate the petitioner on his original post with full back wages.

2.2. Feeling aggrieved by the award of the Labour Court, the respondent under Section 26A of the Industrial Disputes Rules, preferred an application being Misc. Application No. 41 of 1997 for setting aside the said award. The Labour Court after appreciating the materials produced before it, allowed the said application. Hence, this petition.

3. Mr. Mishra learned advocate for the petitioner

has contended that the Labour Court has committed an error in allowing the application *inasmuch* as the respondent has moved an application after four months. Mr. Mishra has further contended that the Labour Court while awarding Rs.2000/- by way of costs has not taken into consideration the loss suffered by the petitioner.

3.1. In support of his contention he has relied upon the decision of this Court rendered in Special Civil Application No. 1910 of 1999 dated 29th January, 1999, whereby the learned Single Judge has directed the respondent employer to pay a sum of Rs. 25,000=00 to the petitioner workman towards the back wages.

4. I have heard the learned counsel for the petitioner. Having perused the materials placed on record, it transpires that the Labour Court while allowing the application has held that the said Reference is filed against the respondent and, therefore, both the parties are required to lead the evidence. Thus, I am in complete agreement with the reasonings adopted and findings arrived at by the Labour Court while exercising the discretion in favour of the respondent.

5. In above view of the matter, the order dated 1st April, 2000 passed by the Labour Court is just and proper and it does not call for any interference by this Court, Hence, the petition is dismissed. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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